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10	CALIFORNIA INTEGRATED WASTE MANAGEMENT BOARD					
11						
12	In the Matter of:	}				
13	IN THE MATTER OF:	SUPPLEMENTAL ADMINISTRATIVE				
14	TRI-C TIRE RECYCLING, INC.	DECISION FOR WASTE AND USED TIRE HAULER ADMINISTRATIVE				
15		PENALTIES				
16		AGENCY NO. 2008-000003-REV				
17	TPID NO: 1443267-01	OAH NO. 2008060034				
18	RESPONDENT.)				
19)				
20		(
21	In the Matter of:	}				
22	TRI-C TIRE RECYCLING, INC; PERMITEE	AGENCY NO. 2008-000002-REV				
23	RE: TRI-C TIRE RECYCLING, INC. DBA	OAH NO. 2008060070				
24	LESTER TIRE; LESTER TIRE DBA TRI-C	}				
25	TIRE RECYCLING, INC.	}				
26	TPID NO: 1464553-01	}				
27	ASSESSOR PARCEL NO: 062-0060-041-0	}				
28	RESPONDENT.	}				
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INTRODUCTION

The California Integrated Waste Management Board (CIWMB) issued an accusation on April 9, 2008, and an amended accusation on July 30, 2008, in Office of Administrative Hearing (OAH) case number 2008060034, seeking to revoke TRI-C TIRE RECYCLING, INC.'s (RESPONDENT) CIWMB Waste and Used Tire Hauler Registration (registration) in accordance with Public Resources Code (PRC) section 42960. CIWMB also issued an accusation for OAH case number 2008060070 on April 8, 2008, seeking to revoke the CIWMB Waste Tire Permit (permit) at 6241 Turner Road in Sacramento for TRI-C TIRE RECYCLING, INC; PERMITEE; TRI-C TIRE RECYCLING, INC.

RESPONDENT timely appealed both accusations, the cases were consolidated by order of the OAH on July 15, 2008, and a hearing was scheduled for August 18, 2008.

On August 17, 2008, the parties negotiated a Stipulation for Issuance of Administrative Decision for the Revocation of Waste and Used Tire Hauler Registration, the Revocation of Minor Waste Tire Facility Permit, and Waste and Used Tire Administrative Penalties ("Stipulation") to resolve the issues in this consolidated case. The Stipulation was presented on August 18, 2008, prior to the Hearing, and the Hearing was postponed pending a Decision by the CIWMB. The terms of the Stipulation were adopted by CIWMB on August 19, 2008 in the Administrative Decision For the Revocation of Waste and Used Tire Hauler Registration and Waste and Used Tire Hauler Administrative Penalties ("Administrative Decision"); and the Administrative Decision for the Revocation of Minor Waste Tire Facility Permit. The following facts describe how Respondent has defaulted on the terms of the Stipulation, and therefore gives CIWMB the discretion to impose one hundred and twenty thousand dollars (\$120,000.00) in waste and used hauler administrative penalties.

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FACTS IN SUPPORT OF DEFAULT OF STIPULATION

- In paragraph 27 of the Stipulation, RESPONDENT agreed to one hundred and twenty thousand dollars (\$120,000.00) in administrative penalties. One hundred thousand dollars (\$100,000.00) of these administrative penalties was to be held in abeyance for three years, and would become payable in the event of default of the stipulation. Twenty thousand dollars (\$20,000.00) was to be paid to CIWMB prior to September 15, 2008. Furthermore, RESPONDENT agreed that "[i]f payment by RESPONDENT hereunder is not received by within ten days of the due date, then RESPONDENT shall be deemed in default of this STIPULATION."
- 2. Paragraph 27(a) of the Administrative Decision states:
 - "a) In the event RESPONDENT fails to pay the sum of \$20,000 to CIWMB by the due date, or any other amount in accordance with the terms of the Stipulation, CIWMB may determine that a breach of this Stipulation has occurred and demand immediate payment of up to the \$120,000 administrative penalty."
- 3. To date, CIWMB had received no payment from RESPONDENT. Instead, on September 23, 2008, RESPONDENT sent an email requesting a delay in the Stipulation's payment schedule because RESPONDENT claims that their customers are not paying them based on representations made by the CIWMB to their customers. On September 24, 2008, CIWMB responded by email, requesting that RESPONDENT provide specific reasons for needing the delay in writing together with substantiating documentation, and submit them to CIWMB by October 1, 2008. No further correspondence has been received from RESPONDENT.

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LEGAL CONCLUSION

Respondent has violated the terms of the Stipulation by failing to pay the twenty thousand dollars (\$20,000.00) by September 15, 2008. The parties stipulated that failure to comply with the Stipulation would result in a default or breach of the terms of the Stipulation and would subject the Respondent to the waste and used tire hauler penalty amount of one hundred and twenty thousand dollars (\$120,000.00) as described in the Stipulation and Administrative Decision. RESPONDENT's request for further delay in payment is denied because it was not substantiated by supporting documentation.

ORDER

GOOD CAUSE APPEARING THEREFORE, the following order is hereby made: TRI-C TIRE RECYCLING, INC. is ordered to pay an administrative penalty of one hundred and twenty thousand dollars (\$120,000.00) less any payments already received by the CIWMB.

This DECISION shall become effective	11	/13,	108	
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Dated this ____ day of _____ 2008.

MARGO REID BROWN

Chair

CALIFORNIA INTEGRATED WASTE

MANAGEMENT BOARD

1 DECLARATION OF SERVICE BY CERTIFIED MAIL Case Name. In the Matter of, TRI-C TIRE RECYCLING, INC. and TRI-C TIRE RECYCLING, INC: 2 PERMITEE RE: TRI-C TIRE RECYCLING, INC. dba LESTER TIRE. 3 TPID Nos' 1464553-01 and 1443267; Agency Case No's: 2008-000002-REV and 2008-000003-REV: 4 OAH No's, 2008-060034 and 2008-060070. 5 | declare: 6 I am employed by the Legal Office of the California Integrated Waste Management Board, which is the 7 office of a member of the California State Bar under which member's direction this service is made. I am 8 18 years of age or older and not a party to this matter. I am familiar with the business practice of the 9 California Integrated Waste Management Board for collection and processing of correspondence for 10 mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Legal Office of the California Integrated Waste Management 11 Board is deposited with the United States Postal Service that same day in the ordinary course of 12 business. 13 On October 14, 2008, I served the following: 14 SUPPLEMENTAL ADMINISTRATIVE DECISION FOR WASTE AND USED TIRE 15 HAULER ADMINISTRATIVE PENALTIES 16 by placing a true copy in a sealed envelope with certified mail delivery postage thereon to be fully 17 prepaid, in the internal mail collection system at the California Integrated Waste Management Board, 18 addressed as follows: 19 Addressee(s): 20 Louis Gonzalez WEINTRAUB GENSHLEA CHEDIAK Law Corporation 21 400 Capitol Mall, 11th Floor Sacramento, California 95814 22 I declare under penalty of perjury under the laws of the State of California that the foregoing is true and 23 correct 24 Executed on the 14th day of October, 2008, at Sacramento, California. 25

Gloria Bell Declarant